

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

PERCY F. NEWBY,
LAWN LIMITED,
MGMT LIMITED,
CHURCH OF GOD AND APOSTLES, and
THURSTON COUNTY,

Defendants.

Case No.

**COMPLAINT TO REDUCE TAX
ASSESSMENTS TO JUDGMENT
AND FORECLOSE FEDERAL TAX
LIENS**

The United States of America hereby complains and alleges as follows:

INTRODUCTION

1. This is a civil action by the United States to (1) reduce to judgment federal income tax assessments against Percy F. Newby for the years 2002 to 2006; (2) foreclose federal tax liens on the real property located at 15011 119th Way SE, Yelm, Washington 98597 (the “119th Way Property”), which the United States alleges is held in the names of Lawn Limited or MGMT Limited as the nominees, alter egos, and/or fraudulent transferees of Percy F. Newby; and (3) foreclose federal tax liens on the real property located at 22306 Thompson Creek Road

1 SE, Tenino, Washington 98589 (the “Thompson Creek Property”), which the United States
2 alleges is held in the names of Lawn Limited or Church of God and Apostles as the nominees,
3 alter egos, and/or fraudulent transferees of Percy F. Newby.

4 JURISDICTION AND VENUE

5 2. This action is commenced pursuant to 26 U.S.C. §§ 7401 and 7403 at the
6 direction of the Attorney General of the United States and at the request and with the
7 authorization of the Chief Counsel of the Internal Revenue Service (“IRS”), a duly authorized
8 delegate of the Secretary of the Treasury.

9 3. The Court has jurisdiction over this action pursuant to 26 U.S.C. § 7402 and 28
10 U.S.C. §§ 1340 and 1345.

11 4. Venue is proper in the Western District of Washington under 28 U.S.C. §§
12 1391(b) and 1396. The tax liabilities at issue accrued in this district, the real properties at issue
13 are located within this district, and, upon information and belief, Percy F. Newby resides within
14 this district.

15 DEFENDANTS

16 5. Percy F. Newby (“Newby”) is named as a defendant because he has unpaid
17 federal tax liabilities for which the United States seeks a judgment.

18 6. Lawn Limited is named as a defendant pursuant to 26 U.S.C. § 7403(b) because it
19 may claim an interest in the real properties at issue.

20 7. MGMT Limited, also known as MGMT, is named as a defendant pursuant to 26
21 U.S.C. § 7403(b) because it may claim an interest in the real properties at issue.

20. During 2002 to 2006, Newby earned income from self-employed business activities conducted through various entities he controlled, including Venture Investments, Inc., Management First, Inc. (or First Management, Inc.), Gemini Services, Phenix Institute, www.reversecontrol.org, First Option, 1st Option, First Option, Inc., and TimeShare Toys.

21. Newby's self-employed business activities consisted, at least in part, of promoting tax-avoidance schemes.

22. Newby funneled income and assets through bank accounts in the names of the entities listed in paragraph 20.

23. Newby did not report his wages or self-employment income to the IRS.

24. Between 2002 and 2006, Newby used Church of God and Apostles to pay his personal expenses, which constituted taxable income to him.

NOMINEE / ALTER EGO ENTITIES

25. Lawn Limited is an unregistered entity created, owned, and controlled by Newby.

26. Newby holds himself out as the "trustee" or "agent" of Lawn Limited.

27. Lawn Limited's address is the 119th Way Property.

28. Newby uses Lawn Limited to hide ownership of his assets.

29. MGMT Limited is a Washington corporation.

30. MGMT Limited was formed on December 9, 2010.

31. Initially, MGMT Limited was controlled by Wayne Rowland.

32. Upon information and belief, Wayne Rowland was Newby's associate or friend. Rowland also subscribed to tax-defier beliefs.

33. The initial officers of MGMT Limited were Wayne Rowland, Wayne Goss, and Kenneth Wayne.

34. Kenneth Wayne is an alias for Kenneth Wayne Learning, who was convicted of filing false liens against federal officials and is currently incarcerated.

35. Wayne Rowland died in December 2014.

36. In 2014, Newby assumed ownership and control of MGMT Limited.

37. Since 2014, Newby has been the president, secretary, and chairman of the board of MGMT Limited.

38. Since 2014, MGMT Limited's address has been the 119th Way Property.

39. Newby uses MGMT Limited to hide ownership of his assets.

40. Church of God and Apostles is an unregistered entity located in Washington.

41. Church of God and Apostles was apparently created on June 2, 2004, when a "Certification of Execution of an Unincorporated Organized Self Supported Christian Church Ministry" was recorded with the Thurston County Auditor.

42. Upon information and belief, Church of God and Apostles was initially controlled by Wayne Rowland, Newby, and others.

43. Newby was a signatory on bank accounts opened in the name of Church of God and Apostles. Newby used a false Social Security Number on his bank signature card.

44. Newby assumed full ownership and control of Church of God and Apostles no later than 2014.

45. Newby holds himself out as a "director" of Church of God and Apostles.

46. Church of God and Apostles' address is a post office box used by Newby, P.O. Box 100, Rainier, Washington 98576.

47. Church of God and Apostles is not a genuine church or religious organization.

48. Newby uses Church of God and Apostles to hide ownership of his assets.

THE 119TH WAY PROPERTY

49. The 119th Way Property consists of Thurston County Parcel No. 54850001700, located at 15011 119th Way SE, Yelm, Washington 98597 and legally described as:

Section 36 Township 17 Range 1E Plat Hobby Acres DIV 3LT 17 Document 016/033, located in the county of Thurston and commonly known as 15011 119th Way SE, Yelm, WA 98597.

50. The 119th Way Property is a 3-acre residential parcel with a storage shed and pole building, but no fixed residential structure.

51. On July 18, 2011, a Real Estate Contract was recorded with the Thurston County Auditor under which Fred Overstreet agreed to sell the 119th Way Property to MGMT Limited for \$65,000.

52. When Newby assumed control of MGMT Limited in 2014, he also assumed MGMT Limited's obligation to pay the purchase price under the Real Estate Contract for the 119th Way Property.

53. Newby made multiple payments to Fred Overstreet under the Real Estate Contract for the 119th Way Property.

54. On April 24, 2017, a Quit Claim Deed was recorded with the Thurston County Auditor under which Fred Overstreet conveyed the 119th Way Property to MGMT Limited. A Notice of Satisfaction of Real Estate Contract was attached, indicating the Real Estate Contract recorded on July 18, 2011 had been satisfied.

55. On June 11, 2018, a Quit Claim Deed was recorded with the Thurston County Auditor under which MGMT Limited conveyed the 119th Way Property to Lawn Limited for no consideration.

56. Newby currently resides in a trailer located on the 119th Way Property.

57. Newby currently operates a business that sells creams and lotions on the 119th Way Property.

58. Newby has operated a business that sells bottled water, and a business that provides administration and business support services, on the 119th Way Property.

59. From 2015 to the present, Newby has used MGMT Limited, Church of God and Apostles, and Silverwater Company (another entity created, owned, and controlled by Newby) to pay the real property taxes for the 119th Way Property.

THE THOMPSON CREEK PROPERTY

60. The Thompson Creek Property consists of Thurston County Parcel No. 21519340000, located at 22306 Thompson Creek Road SE, Tenino, Washington 98589 and legally described as:

Parcel A of Boundary Line Adjustment No. BLA-1832 as recorded August 14, 1996 under Auditor's File Nos. 3046345 and 3046346 in Thurston County, Washington.

Abbreviated Legal Description: Section 19 Township 15 Range 1E Quarter SE SW & SW SE BLA-1832 TR A Document 3046346.

61. The Thompson Creek Property is a rural 42-acre parcel with a small cabin.

62. On March 28, 2000, a Statutory Warranty Deed was recorded with the Thurston County Auditor under which Cascade Trader, Inc. conveyed the Thompson Creek Property to Wayne Rowland.

63. On August 27, 2014, a "Real Property Bill of Exchange Agreement and Contract" was recorded with the Thurston County Auditor under which Wayne Rowland conveyed the Thompson Creek Property to Church of God and Apostles for \$80,000. Newby signed the Real Property Bill of Exchange Agreement and Contract as a director of Church of God and Apostles.

64. A signed Warranty Deed was attached to the Real Property Bill of Exchange Agreement and Contract, and confirmed Wayne Rowland was conveying the Thompson Creek Property to Church of God and Apostles for \$80,000.

65. Upon information and belief, Newby made payments to Rowland through Church of God and Apostles, pursuant to the Real Property Bill of Exchange Agreement and Contract for the Thompson Creek Property.

66. On January 8, 2015, a Notice of Satisfaction of Promissory Note was recorded with the Thurston County Auditor, indicating that Church of God and Apostles had fully paid the \$80,000 purchase price for the Thompson Creek Property. Wayne Rowland had signed the document on November 26, 2014, shortly before his death.

67. On June 11, 2018, a Quit Claim Deed was recorded with the Thurston County Auditor under which Church of God and Apostles conveyed the Thompson Creek Property to Lawn Limited for no consideration.

68. From 2015 to the present, Newby has used Church of God and Apostles and MGMT Limited to pay the real property taxes for the Thompson Creek Property.

FEDERAL TAX LIABILITIES AND LIENS

69. After an examination, a duly authorized delegate of the Secretary of the Treasury timely assessed federal income taxes (Form 1040), penalties, and interest against Percy F. Newby as follows:

<u>Tax Year</u>	<u>Assessment Date</u>	<u>Assessment Amount</u>	<u>Unpaid Balance as of Nov. 12, 2018¹</u>
2002	12-01-2008	Income Taxes: \$22,175.00	\$87,484.93

¹ The unpaid balance amounts in paragraph 69 include taxes, penalties, interest, payments, credits, and other adjustments through November 12, 2018.

<u>Tax Year</u>	<u>Assessment Date</u>	<u>Assessment Amount</u>	<u>Unpaid Balance as of Nov. 12, 2018¹</u>
	12-01-2008	Late Payment Penalty: \$5,543.75	
	12-01-2008	Fraudulent Late Filing Penalty: \$16,076.88	
	12-01-2008	Estimated Tax Penalty: \$741.03	
	12-01-2008	Interest: \$15,933.31	
	10-19-2009	Fees and Collection Costs: \$18.00	
	11-04-2013	Interest: \$11,762.33	
	11-03-2014	Interest: \$2,194.14	
	11-09-2015	Interest: \$2,304.92	
	11-07-2016	Interest: \$2,804.10	
	11-20-2017	Interest: \$3,363.15	
	07-09-2018	Fees and Collection Costs: \$198.00	
	09-17-2018	Fees and Collection Costs: \$594.00	
	09-17-2018	Fees and Collection Costs: \$444.00	
	10-29-2018	Fees and Collection Costs: \$248.00	
2003	12-01-2008	Income Taxes: \$18,235.00	\$68,307.62
	12-01-2008	Late Payment Penalty: \$4,558.75	
	12-01-2008	Fraudulent Late Filing Penalty: \$13,220.38	
	12-01-2008	Estimated Tax Penalty: \$470.49	
	12-01-2008	Interest: \$11,137.95	
	11-04-2013	Interest: \$9,261.21	
	11-03-2014	Interest: \$1,727.48	
	11-09-2015	Interest: \$1,814.69	
	11-07-2016	Interest: \$2,207.71	
	11-20-2017	Interest: \$2,647.86	
2004	12-01-2008	Income Taxes: \$12,664.00	\$44,012.69
	12-01-2008	Late Payment Penalty: \$2,698.08	
	12-01-2008	Fraudulent Late Filing Penalty: \$8,891.40	
	12-01-2008	Estimated Tax Penalty: \$350.16	
	12-01-2008	Interest: \$6,153.88	
	10-31-2011	Late Payment Penalty: \$367.92	
	11-04-2013	Interest: \$5,926.54	
	11-03-2014	Interest: \$1,113.07	
	11-09-2015	Interest: \$1,169.26	
	11-07-2016	Interest: \$1,422.49	
	11-20-2017	Interest: \$1,706.09	
2005	12-01-2008	Income Taxes: \$1,845.00	\$6,155.09
	12-01-2008	Late Payment Penalty: \$295.20	
	12-01-2008	Fraudulent Late Filing Penalty: \$1,337.63	
	12-01-2008	Interest: \$665.73	
	10-31-2011	Late Payment Penalty: \$166.04	
	11-04-2013	Interest: \$816.11	
	11-03-2014	Interest: \$155.66	
	11-09-2015	Interest: \$163.52	
	11-07-2016	Interest: \$198.93	

<u>Tax Year</u>	<u>Assessment Date</u>	<u>Assessment Amount</u>	<u>Unpaid Balance as of Nov. 12, 2018¹</u>
	11-20-2017	Interest: \$238.60	
2006	12-01-2008	Income Taxes: \$6,869.00	\$21,776.18
	12-01-2008	Late Payment Penalty: \$686.90	
	12-01-2008	Fraudulent Late Filing Penalty: \$4,980.02	
	12-01-2008	Estimated Tax Penalty: \$325.06	
	12-01-2008	Interest: \$1,404.68	
	10-31-2011	Late Payment Penalty: \$1,030.34	
	11-04-2013	Interest: \$2,838.31	
	11-03-2014	Interest: \$550.71	
	11-09-2015	Interest: \$578.52	
	11-07-2016	Interest: \$703.81	
	11-20-2017	Interest: \$844.12	
TOTAL:			\$227,736.51

70. Since the dates of assessments described in paragraph 69 above, interest and other statutory additions have accrued and will continue to accrue as provided by law. As of November 12, 2018, Newby owes \$227,736.51 in federal income tax liabilities for the years 2002 to 2006.

71. Despite timely notice and demand for payment of the assessed sums described in paragraph 69 above, Newby has refused or neglected to pay the assessed amounts to the United States. Therefore, pursuant to 26 U.S.C. §§ 6321 and 6322, federal tax liens arose in favor of the United States upon all property and rights to property belonging to Newby as of the date of each assessment.

72. In order to provide notice to third parties entitled to notice of the statutory liens under 26 U.S.C. § 6323, the IRS recorded the following Notices of Federal Tax Lien ("NFTL") naming Percy F. Newby as the taxpayer:

<u>Location of Filing</u>	<u>Kind of Tax</u>	<u>Tax Years</u>	<u>Filing Date</u>
Thurston County Auditor	1040	2002, 2003, 2004, 2005, 2006	06-19-2018
Washington Department of Licensing	1040	2002, 2003, 2004, 2005, 2006	06-20-2018

Washington Department of Licensing	1040	2002, 2003, 2004, 2005, 2006	10-09-2018 (refiled NFTL)
Thurston County Auditor	1040	2002, 2003, 2004, 2005, 2006	10-10-2018 (refiled NFTL)

73. In order to provide notice to third parties entitled to notice of the statutory liens under 26 U.S.C. § 6323, the IRS recorded the following NFTLs naming Lawn Limited, as a nominee of Percy F. Newby, as the taxpayer, and specifying that the liens attached to the 119th Way Property:

<u>Location of Filing</u>	<u>Kind of Tax</u>	<u>Tax Years</u>	<u>Filing Date</u>
Thurston County Auditor	1040	2002, 2003, 2004, 2005, 2006	08-21-2018
Thurston County Auditor	1040	2002, 2003, 2004, 2005, 2006	11-14-2018 (refiled NFTL)

74. In order to provide notice to third parties entitled to notice of the statutory liens under 26 U.S.C. § 6323, the IRS recorded the following NFTLs naming Lawn Limited, as a nominee of Percy F. Newby, as the taxpayer, and specifying that the liens attached to the Thompson Creek Property:

<u>Location of Filing</u>	<u>Kind of Tax</u>	<u>Tax Years</u>	<u>Filing Date</u>
Thurston County Auditor	1040	2002, 2003, 2004, 2005, 2006	08-21-2018
Thurston County Auditor	1040	2002, 2003, 2004, 2005, 2006	11-14-2018 (refiled NFTL)

75. In order to provide notice to third parties entitled to notice of the statutory liens under 26 U.S.C. § 6323, the IRS recorded the following NFTLs naming Lawn Limited, as an alter ego of Percy F. Newby, as the taxpayer:

<u>Location of Filing</u>	<u>Kind of Tax</u>	<u>Tax Years</u>	<u>Filing Date</u>
Thurston County Auditor	1040	2002, 2003, 2004, 2005, 2006	08-21-2018
Thurston County Auditor	1040	2002, 2003, 2004, 2005, 2006	11-14-2018 (refiled NFTL)

**FIRST CLAIM FOR RELIEF:
REDUCE TO JUDGMENT FEDERAL INCOME TAX ASSESSMENTS
AGAINST PERCY F. NEWBY FOR YEARS 2002-2006**

76. The United States incorporates the allegations stated in paragraphs 1 to 75.

77. The IRS timely assessed federal income taxes, interest, and penalties against Percy F. Newby for the years 2002 to 2006, as described in paragraph 69.

78. Despite timely notice and demand for payment of the assessments set forth in paragraph 69, Newby has neglected, failed, or refused to pay the assessed amounts to the United States.

79. Accordingly, the United States has established a claim against Newby for unpaid federal income tax liabilities in the amount of \$227,736.51 as of November 12, 2018, plus interest and other statutory additions accruing thereafter as provided by law.

80. Under 26 U.S.C. § 7402(a), the United States is entitled to judgment against Newby for the unpaid balance of the tax assessments for the years 2002 to 2006 described in paragraph 69, *i.e.*, \$227,736.51, as of November 12, 2018, plus interest and other statutory additions accruing to the date of payment.

**SECOND CLAIM FOR RELIEF:
FORECLOSE FEDERAL TAX LIENS ON THE 119TH WAY PROPERTY**

81. The United States incorporates the allegations stated in paragraphs 1 to 80.

82. Under 26 U.S.C. §§ 6321 and 6322, federal tax liens arose on the dates of the assessments set forth in paragraph 69, and attached to all property and rights to property of Percy F. Newby, including the 119th Way Property.

83. Newby acquired an interest in the 119th Way Property in 2014, when he assumed ownership and control of MGMT Limited and began making payments to Fred Overstreet under the Real Estate Contract recorded on July 18, 2011 (described in paragraphs 51 to 53).

84. Newby effectively acquired title to the 119th Way Property under the Quit Claim Deed to MGMT Limited recorded on April 24, 2017 (described in paragraph 54).

85. Newby caused MGMT Limited to transfer the 119th Way Property to Lawn Limited for no consideration under the Quit Claim Deed recorded on June 11, 2018 (described in paragraph 55).

86. Newby had the 119th Way Property titled to MGMT Limited and Lawn Limited to conceal his true ownership of the property.

87. MGMT Limited and Lawn Limited hold any interest in the 119th Way Property solely as the nominees, alter egos, and/or fraudulent transferees of Newby.

88. MGMT Limited and Lawn Limited paid little or no consideration, independent of Newby, for the transfers of interest in the 119th Way Property.

89. Newby placed the 119th Way Property in the names of MGMT Limited and Lawn Limited in anticipation of litigation or other liabilities.

90. The June 11, 2018 Quit Claim Deed described in paragraph 55 was recorded only a few weeks after the IRS informed Newby it would be levying his assets to pay his delinquent federal income tax liabilities.

1 91. There is a close relationship between Newby, MGMT Limited, and Lawn
2 Limited.

3 92. Newby retained possession and control of the 119th Way Property after the
4 transfers of interest to MGMT Limited and Lawn Limited.

5 93. Newby continued to use and enjoy the benefits of the 119th Way Property after
6 the transfers of interest to MGMT Limited and Lawn Limited.

7 94. The transfers of interest in the 119th Way Property to MGMT Limited and Lawn
8 Limited should be set aside under the Washington Uniform Voidable Transactions Act, RCW
9 § 19.40.011, *et seq.*, or its predecessor, the Washington Uniform Fraudulent Transfer Act, RCW
10 § 19.40.011, *et seq.* (for transfers made before July 23, 2017), because they were made with the
11 actual intent to hinder, delay, or defraud the United States and/or other creditors.

12 95. The transfers of interest in the 119th Way Property to MGMT Limited and Lawn
13 Limited should be set aside under the Washington Uniform Voidable Transactions Act, RCW
14 § 19.40.011, *et seq.*, or its predecessor, the Washington Uniform Fraudulent Transfer Act, RCW
15 § 19.40.011, *et seq.* (for transfers made before July 23, 2017), because Newby did not receive a
16 reasonably equivalent value in exchange, and (a) intended to incur, or believed or reasonably
17 should have believed that he would incur, debts beyond his ability to pay, or (b) was insolvent at
18 the time of the transfer(s) or became insolvent as a result of the transfer(s).

19 96. MGMT Limited and Lawn Limited have no independent claim or interest in the
20 119th Way Property apart from Newby, and to the extent they assert any such claim or interest, it
21 is meritless and fraudulent and does not impact the attachment of federal tax liens.

22 97. Accordingly, the United States' federal tax liens attach to the 119th Way Property
23 notwithstanding the transfers of title to MGMT Limited and Lawn Limited.

1 98. The United States provided notice to third parties entitled to notice of the
2 statutory tax liens under 26 U.S.C. § 6323 by filing Notices of Federal Tax Lien as described in
3 paragraphs 72 to 75.

4 99. The United States' federal tax liens have priority over all interests in the 119th
5 Way Property acquired after the attachment of the liens, subject to 26 U.S.C. § 6323.

6 100. Under 26 U.S.C. § 7403, the United States is entitled to enforce its federal tax
7 liens against the 119th Way Property by foreclosing upon and selling the property, and applying
8 an appropriate portion of the net proceeds toward Newby's unpaid federal tax liabilities.

9 **THIRD CLAIM FOR RELIEF:**
10 **FORECLOSE FEDERAL TAX LIENS ON THE THOMPSON CREEK PROPERTY**

11 101. The United States incorporates the allegations stated in paragraphs 1 to 100.

12 102. Under 26 U.S.C. §§ 6321 and 6322, federal tax liens arose on the dates of the
13 assessments set forth in paragraph 69, and attached to all property and rights to property of Percy
14 F. Newby, including the Thompson Creek Property.

15 103. Newby acquired an interest in the Thompson Creek Property in 2014, when he
16 used Church of God and Apostles to enter into a real estate contract to purchase the property
17 (described in paragraphs 63 to 65).

18 104. Newby effectively acquired title to the Thompson Creek Property under the
19 Warranty Deed to Church of God and Apostles recorded on August 27, 2014 (described in
20 paragraph 64).

21 105. Newby caused Church of God and Apostles to transfer the Thompson Creek
22 Property to Lawn Limited for no consideration under the Quit Claim Deed recorded on June 11,
23 2018 (described in paragraph 67).

1 106. Newby had the Thompson Creek Property titled to Church of God and Apostles
2 and Lawn Limited to conceal his true ownership of the property.

3 107. Church of God and Apostles and Lawn Limited hold any interest in the
4 Thompson Creek Property solely as the nominees, alter egos, and/or fraudulent transferees of
5 Newby.

6 108. Church of God and Apostles and Lawn Limited paid little or no consideration,
7 independent of Newby, for the transfers of interest in the Thompson Creek Property.

8 109. Newby placed the Thompson Creek Property in the names of Church of God and
9 Apostles and Lawn Limited in anticipation of litigation or other liabilities.

10 110. The June 11, 2018 Quit Claim Deed described in paragraph 67 was recorded only
11 a few weeks after the IRS informed Newby it would be levying his assets to pay his delinquent
12 federal income tax liabilities.

13 111. There is a close relationship between Newby, Church of God and Apostles, and
14 Lawn Limited.

15 112. Newby retained possession and control of the Thompson Creek Property after the
16 transfers of interest to Church of God and Apostles and Lawn Limited.

17 113. Newby continued to use and enjoy the benefits of the Thompson Creek Property
18 after the transfers of interest to Church of God and Apostles and Lawn Limited.

19 114. The transfers of interest in the Thompson Creek Property to Church of God and
20 Apostles and Lawn Limited should be set aside under the Washington Uniform Voidable
21 Transactions Act, RCW § 19.40.011, *et seq.*, or its predecessor, the Washington Uniform
22 Fraudulent Transfer Act, RCW § 19.40.011, *et seq.* (for transfers made before July 23, 2017),
23

1 because they were made with the actual intent to hinder, delay, or defraud the United States
2 and/or other creditors.

3 115. The transfers of interest in the Thompson Creek Property to Church of God and
4 Apostles and Lawn Limited should be set aside under the Washington Uniform Voidable
5 Transactions Act, RCW § 19.40.011, *et seq.*, or its predecessor, the Washington Uniform
6 Fraudulent Transfer Act, RCW § 19.40.011, *et seq.* (for transfers made before July 23, 2017),
7 because Newby did not receive a reasonably equivalent value in exchange, and (a) intended to
8 incur, or believed or reasonably should have believed that he would incur, debts beyond his
9 ability to pay, or (b) was insolvent at the time of the transfer(s) or became insolvent as a result of
10 the transfer(s).

11 116. Church of God and Apostles and Lawn Limited have no independent claim or
12 interest in the Thompson Creek Property apart from Newby, and to the extent they assert any
13 such claim or interest, it is meritless and fraudulent and does not impact the attachment of federal
14 tax liens.

15 117. Accordingly, the United States' federal tax liens attach to the Thompson Creek
16 Property notwithstanding the transfers of title to Church of God and Apostles and Lawn Limited.

17 118. The United States provided notice to third parties entitled to notice of the
18 statutory tax liens under 26 U.S.C. § 6323 by filing Notices of Federal Tax Lien as described in
19 paragraphs 72 to 75.

20 119. The United States' federal tax liens have priority over all interests in the
21 Thompson Creek Property acquired after the attachment of the liens, subject to 26 U.S.C. § 6323.

22 120. Under 26 U.S.C. § 7403, the United States is entitled to enforce its federal tax
23 liens against the Thompson Creek Property by foreclosing upon and selling the property, and

1 applying an appropriate portion of the net proceeds toward Newby's unpaid federal tax
2 liabilities.

3 WHEREFORE, the United States prays as follows:

4 A. That the Court determine and adjudge that Percy F. Newby is indebted to the
5 United States for unpaid federal income tax liabilities for the years 2002 to 2006 in the amount
6 of \$227,736.51, plus interest and other statutory additions accruing from November 12, 2018 as
7 provided by law, or in such amount as the Court determines, and that judgment in that amount be
8 entered against Percy F. Newby and in favor of the United States;

9 B. That the Court determine, adjudge, and decree that the United States has valid and
10 subsisting federal tax liens on all property and rights to property of Percy F. Newby, including
11 but not limited to, the 119th Way Property and the Thompson Creek Property;

12 C. That the Court determine that Lawn Limited holds any claim or interest in the
13 119th Way Property or the Thompson Creek Property as the nominee, alter ego, and/or
14 fraudulent transferee of Percy F. Newby;

15 D. That the Court determine that MGMT Limited holds any claim or interest in the
16 119th Way Property as the nominee, alter ego, and/or fraudulent transferee of Percy F. Newby;

17 E. That the Court determine that Church of God and Apostles holds any claim or
18 interest in the Thompson Creek Property as the nominee, alter ego, and/or fraudulent transferee
19 of Percy F. Newby;

20 F. That the Court determine that Lawn Limited, MGMT Limited, and Church of God
21 and Apostles have no independent claim to the 119th Way Property or the Thompson Creek
22 Property, or to any sale proceeds therefrom;

1 G. That the Court determine the interests of Percy F. Newby and all other named
2 Defendants in the 119th Way Property and the Thompson Creek Property, and the parties'
3 respective priorities in a distribution of proceeds from the sales of such properties;

4 H. That the federal tax liens against Percy F. Newby be foreclosed upon the 119th
5 Way Property and the Thompson Creek Property, that the properties be sold under 26 U.S.C.
6 § 7403 and 28 U.S.C. § 2001, and that the sale proceeds be distributed in accordance with the
7 Court's findings as to the validity and priority of the liens and claims of all parties, with an
8 appropriate portion of the proceeds going to the United States for application toward the unpaid
9 federal tax liabilities of Percy F. Newby; and

10 I. That the United States be granted its costs and attorney's fees herein, and such
11 other and further relief as the Court deems just and proper.

12
13 Dated: November 28, 2018

Respectfully submitted,

14
15 RICHARD E. ZUCKERMAN
Principal Deputy Assistant Attorney General

16 /s/ Jennifer Y. Golden
JENNIFER Y. GOLDEN
17 Trial Attorney, Tax Division
U.S. Department of Justice
18 P.O. Box 683, Ben Franklin Station
Washington, D.C. 20044
19 Tel: 202-307-6547
Fax: 202-307-0054
Jennifer.Y.Golden@usdoj.gov

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21 Of Counsel:
ANNETTE L. HAYES
22 United States Attorney
Western District of Washington

23 *Attorneys for the United States of America*

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

United States of America

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
Jennifer Y. Golden, U.S. Department of Justice, Tax Division, P.O. Box
683, Ben Franklin Station, Washington, DC 20044, (202) 307-6547

DEFENDANTS

Percy F. Newby; Lawn Limited; MGMT Limited; Church of God and Apostles; Thurston County

County of Residence of First Listed Defendant Thurston
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input checked="" type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from Another District (specify)
☐ 6 Multidistrict Litigation - Transfer
☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

26 U.S.C. 7403

Brief description of cause:

reduce federal tax assessments to judgment and foreclose federal tax liens

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$
227,736.51

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

11/28/2018

SIGNATURE OF ATTORNEY OF RECORD

/s/ Jennifer Y. Golden

FOR OFFICE USE ONLY

RECEIPT # _____

AMOUNT _____

APPLYING IFP _____

JUDGE _____

MAG. JUDGE _____

Western District of Washington

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Percy F. Newby
15011 119th Way SE
Yelm, WA 98597

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Jennifer Y. Golden

Jennifer Y. Golden
U.S. Department of Justice, Tax Division
P.O. Box 683
Ben Franklin Station
Washington, DC 20044

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Western District of Washington

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Lawn Limited
c/o Percy F. Newby, Managing Agent, General Agent, and/or Trustee
15011 119th Way SE
Yelm, WA 98597

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Jennifer Y. Golden

Jennifer Y. Golden
U.S. Department of Justice, Tax Division
P.O. Box 683
Ben Franklin Station
Washington, DC 20044

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Western District of Washington

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Western District of Washington

Civil Action No.

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